



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 25, 1992

Ms. Jo Wiginton  
Senior Assistant City Attorney  
City of Houston  
Legal Department  
P. O. Box 1562  
Houston, Texas 77251-1562

OR92-518

Dear Ms. Wiginton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16683.

You sought an open records decision from this office pursuant to section 7(c) of the act. Consequently, this office notified representatives of Health Jet, Inc. (Health Jet) that we received your request for an open records decision regarding certain financial records of that company. In our letter to Health Jet, this office requested an explanation as to why portions of their financial records were excepted from public disclosure, with the caveat that their failure to do so within a reasonable time would result in this office instructing you to disclose the information.

More than fourteen days have elapsed since this office issued notice, but Health Jet has failed to provide this office with any explanation as to why the requested documents should not be released. Consequently, Health Jet has not carried its burden in demonstrating that the financial information is excepted from required public disclosure. We note, however, that included among the requested documents are Health Jet's 1985 corporate income tax returns. These tax returns are made confidential by federal law. See 26 U.S.C. § 6103. Accordingly, you must withhold this information.

You, on the other hand, have raised section 3(a)(10) as an exception that protects the remaining information at issue. Section 3(a)(10) protects

information that is made confidential by statute or judicial decision. However, you have cited no statute or judicial decision that would confer confidentiality on this information. See Open Records Decision No. 592 (1991) (copy enclosed). Because neither you nor Health Jet have met the burden of demonstrating that the financial information should be withheld, the city must release the information, except for the income tax returns, which are confidential under federal law. If you have any questions regarding this letter, please refer to OR92-518.

Yours very truly,



Kay Hamilton Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/RWP/lmm

Ref.: ID# 16683  
ID# 16726  
ID# 16909

Enclosure: Open Records Decision No. 592

cc: Mr. Kevin G. Corcoran  
Phillips & Akers  
3200 Phoenix Tower  
3200 Southwest Freeway  
Houston, Texas 77027  
(w/o enclosure)

Mr. or Ms. Jing-Yau Chung  
HealthJet, Inc.  
3907 Dennis  
Houston, Texas 77074  
(w/o enclosure)